IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 693 OF 2006

Arvind Govardhandas Bhatia ...Applicant.
V/s
The State of Maharashtra ...Respondents.

Mr. Aman Solkar for the applicant.
Mr. Y.S. Shinde, APP for the State.

ALONGWITH
CRIMINAL APPLICATION NO. 699 OF 2006

Shri Kishorilal Mangilal Agrawal ...Applicant.
V/s
State of Maharashtra ...Respondents.

Mr. A.P. Mundargi for the applicant.
Mr. R.N. Mishra Spl. P.P. along with Mr. R.Y. Mirza, APP for the State.

ALONGWITH
CRIMINAL APPLICATION NO. 628 OF 2006

Shri Milind Arvind Pandey ...Applicant.
V/s
The State of Maharashtra ...Respondent.

Mr. M.S. Mohite for the applicant.
Ms. M.M. Deshmukh, APP for the State.

ALONGWITH
CRIMINAL APPLICATION NO. 923 OF 2006

Deepak M. Thakkar ...Applicant.
V/s
The State of Maharashtra ...Respondents.

Mr. Aman H. Solkar for the applicant.
Ms. S.D. Shinde, APP for the State

CORAM: V.M. KANADE, J.
DATE: 22nd March, 2006

P.C.:

1. Heard the learned Counsel for the applicants and

the learned Counsel for the respondents.

2. All these applications for anticipatory bail can be disposed of by a common order since they pertain to same case which is registered with the Yeola Taluka Police Station vide C.R. No.II-10 of 2004 for the offence punishable under various provisions of the Essential Commodities Act read with the offences punishable under Indian Penal Code and sections 3(4) & (5) of the Nafta Sale Order 2000.

3. Brief facts which are relevant for the purpose of deciding the present applications are as under:-

4. The complainant received information that one tanker was proceeding from Manmad to Yeola and was carrying Nafta which was to be sold in the black market. After the tanker was apprehended and inquiry was made with the driver and the cleaner, the driver informed that the tanker was loaded at Khandbara, Navapur and was proceeding towards Andhra Pradesh via Aurangabad. The driver also informed them that the owner of the tanker was one Milind Pandey who had told them to give a call after reaching Yeola and Aurangabad and he would inform them about the destination. It is alleged in the complaint that the driver and the cleaner did not possess any documentary

evidence about the goods. Under the Nafta Control Order, it is essential to possess documents in order to sell Nafta and it is illegal to sell Nafta to people who do not have the licence. The said Milind Pandey is applicant in Criminal Application No. 628 of 2006. The cleaner and the driver were arrested and the owner of the truck viz. Sayyad Mubarak was arrested and released on bail.

5. The applicant in Criminal Application No. 699 of 2006 is Kishorilal Agrawal and the applicant in Criminal Application No. 693 of 2006 is Arvind Bhatia who were, according to them, ex-partners of the partnership firm M/s JK Petro Chemicals Industries. It is the case of the said applicants Agrawal and Bhatia that they had retired from the partnership firm much prior to the commission of the said offence and they were, therefore, not concerned in any manner with the alleged offence which was committed by the present partners of M/s JK Petro Chemicals Industries.

6. According Milind Pandey who is an applicant in Criminal Application No. 628 of 2006, he was neither the owner of the truck nor was concerned in any manner with the said M/s JK Petro Chemicals Industries and that the only material which was available against him was in the form of statements of the driver and the

cleaner who had stated that he was the owner of the vehicle. According to this applicant Shri Milind Pandey, the original owner of the truck was arrested and later on released on bail. It is his case, therefore, that he is entitled to be granted an anticipatory bail.

7. The applicant Deepak M. Thakkar in Criminal Application No. 923 of 2006 has stated that he was not concerned in any manner with the said seizure of the tanker and that there was no material with the police connecting him with the said offence. It is submitted that the applicant Deepak Thakkar had attended the Investigating Officer on various dates and also had given answers to about 80 questions which were put to him in writing. It is further submitted that the applicant was arrested in respect of another case which was registered at Vadnerbhairav Police Station and he was in police custody for a period of 12 days and, thereafter, was released on bail on 12/2/2006. It is submitted that, therefore, further custodial interrogation of the applicant Deepak Thakkar is not required.

8. The learned Counsel appearing on behalf of the respondents, on the other hand, submitted that Nafta

was a chemical which was used in the adulteration of the petrol and that the firm M/s JK Petro Chemical Industries was involved in selling Nafta in black market and that there was material to show that the applicants Kishorilal Agrawal and Bhatia though had resigned from the partnership firm, they are still in control of the said firm and the present partners were put up as front by them and they are, in reality, paid servants of Shri Agrawal and Shri Bhatia. He submitted that the Investigating Officer has record to indicate that, even today, huge mobile bills of the applicants who are ex-partners of the firm were being paid by the firm. He further submitted that after the investigation was carried out, it was revealed that the firms which had allegedly sold Nafta, either to Firms that did not exist or bogus vouchers were created. The learned Counsel for the respondents further submitted that Milind Pandey was also involved in the said racket of illegal sale of Nafta and his name has been taken by two other accused i.e. the driver and the cleaner of the tanker which was seized by the police. He submitted that though the statement of co-accused is not admissible yet, at the stage of investigation, it is necessary to probe further and get further information from the applicant Milind Pandey about the illegal activities of the accused.

He further submitted that so far as Deepak Thakkar is concerned, there was sufficient material against him to indicate that he was involved in the illegal sell of Nafta to dealers in Chennai and the Investigating Officer has material to suggest that he was responsible for selling Nafta to fictitious persons and petrol pumps who were not authorized to sell the petrol.

9. In my view, considering the material which has been shown to me by the learned Counsel for respondents, this is not a fit case for grant of anticipatory bail. It is no doubt true that there is evidence on record to indicate that the applicants Agrawal and Bhatia had resigned from the firm and that they had transferred the business to the new partners. However, there is sufficient material to indicate that the present partners are put up by these very same persons in order to get exonerated from the criminal liability and they were managing the firms by remaining in the background. Though Milind Pandey may not be a registered owner of the truck which was seized, since his name has been mentioned by the other two accused, it is necessary for the Investigating Officer to have his custody for the purpose of custodial interrogation and the same is the case of

the applicant Deepak Thakkar. The submissions made by the learned Counsel appearing on behalf of the applicants, therefore, cannot be accepted.

10. In my view, this is not a fit case for granting anticipatory bail. The offence which is alleged to have been committed by the accused is a very serious offence as there is spurt of such criminal activities by the businessmen who are prone in selling essential commodities in the black market. Therefore, in public interest also, it is essential to probe into the matter further and sufficient opportunity should be given to the Investigating Officer. Therefore, all the applications are rejected.

11. The learned Counsel appearing on behalf of the applicants, at this stage applies for extention of interim order passed by this Court for some time. This application is vehemently opposed by the learned Counsel appearing on behalf of the respondents. Application is rejected.

12. All the applications are accordingly disposed of.

V.M. KANADE, J.